



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

### Notice of Decision

Decision Date: May 8, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014978

[REDACTED]

Dear [REDACTED],

On April 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 2016 enrollment confirmation, November 19, 2016 eligibility redetermination and November 25, 2016 disenrollment notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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## Decision

Decision Date: May 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014978

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determined that your enrollment in your Medicaid Managed Care plan ended effective September 30, 2016?

Did NY State of Health properly determine that your enrollment in your Medicaid Managed Care plan was next effective December 1, 2016?

Did NY State of Health properly determine that your enrollment in your Medicaid Managed Care plan ended effective December 1, 2016?

## Procedural History

On July 27, 2016, NY State of Health (NYSOH) issued notices confirming your eligible for Medicaid and enrollment in a Medici Managed Care plan, both effective September 1, 2016.

On September 7, 2016 NYSOH issued an eligibility redetermination notice stating that, effective September 30, 2016, you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because the July 27, 2016 notices sent to you by NYSOH were returned as undeliverable mail on August 8, 2016.

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Also on September 7, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end effective September 30, 2016. This was because you were no longer eligible to remain enrolled in health insurance through NYSOH.

On November 2, 2016, NYSOH issued an eligibility redetermination notice, based on your November 1, 2016 updated application, stating that you were eligible for Medicaid effective November 1, 2016.

Also on November 2, 2016, NYSOH issued an enrollment confirmation notice, based on your November 1, 2016 plan selection, stating that you had selected a Medicaid Managed Care Plan and the effective date of that plan was December 1, 2016.

On November 19, 2016, NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because notices sent to you by NYSOH were returned to the Marketplace as undeliverable.

On November 25, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end effective December 1, 2016. This was because you were no longer eligible to remain enrolled in health insurance through NYSOH.

On December 1, 2016, NYSOH issued two eligibility redetermination notices, based on your November 29, 2016 and November 30, 2016 updated applications, stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because notices sent to you by NYSOH were returned as undeliverable mail.

However, on December 2, 2016, NYSOH issued an enrollment confirmation notice, based on your December 1, 2016 plan selection, stating that you had selected a Medicaid Managed Care Plan with an effective date of January 1, 2017.

On January 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the November 2, 2016 enrollment confirmation insofar as it began your Medicaid Managed Care plan on December 1, 2016, and not as of October 1, 2016.

On April 14, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you requested to amend the appeal to include your gap in health coverage for the month of December 2016. The

Hearing Officer granted the request. The record was developed during the hearing on all issues and closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) On July 26, 2017, you updated your application for health insurance.
- 2) According to your NYSOH account, NYSOH's July 27, 2016 eligibility determination and enrollment confirmation notices were returned as undeliverable on August 8, 2016. As a result, you were terminated from your Medicaid Managed Care Plan, effective September 30, 2016.
- 3) You testified that this was because your apartment complex had broken mailbox units until about the middle of September 2016., and no one in your residence was receiving their mail.
- 4) According to your NYSOH account, the September 7, 2016 eligibility determination and disenrollment notices were returned as undeliverable on September 14, 2017, and you were again terminated from your Medicaid Managed Care Plan, effective December 1, 2016.
- 5) You testified that you did not receive any notices telling you that you were disenrolled from your Medicaid Managed Care coverage, effective September 30, 2016. You did not know that you needed to update your account until early November 2016, when you received a bill from your provider for visits you had in October 2016.
- 6) According to your NYSOH account, on November 1, 2016, NYSOH received your updated application for health insurance. You selected your Medicaid Managed Care Plan that day and your enrollment start date was December 1, 2016.
- 7) According to your NYSOH account and your testimony, you were first notified of being terminated from your Medicaid Managed Care plan as of December 1, 2016 when you received NYSOH's November 19, 2016 eligibility redetermination and November 25, 2016 disenrollment notices in the regular mail.
- 8) You testified that you want your Medicaid Managed Care plan reinstated for the months of October 2016 and December 2016 because you have medical bills for those months.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

### State Residency Requirement

To be eligible for enrollment in a CHP plan through the New York State of Health, an applicant must be a resident of New York State (NY Public Health Law § 2510(6)).

### Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

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NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your Medicaid Managed Care plan ended effective September 30, 2016.

You were originally found eligible for Medicaid and enrolled in a Medicaid Managed Care plan, both effective September 1, 2016.

To gain and maintain eligibility for Medicaid through NYSOH, you must be a resident of the state.

According to your NYSOH account, your July 27, 2016 eligibility and enrollment notices were returned to NYSOH as undeliverable mail on August 8, 2016. As a result, you were disenrolled from your Medicaid Managed Care plan, as stated in the September 7, 2016 eligibility redetermination and disenrollment notices. This was because the returned mail indicated you did not have a state address and, therefore, did not meet the state residency requirement.

You testified that you did not receive any notices telling you that you were ineligible for Medicaid and were being disenrolled from your Medicaid Managed Care coverage, effective September 30, 2016. This was because your September 7, 2016 eligibility redetermination and disenrollment notices were also returned as undeliverable to NYSOH on September 14, 2017. These returned notices also indicated to NYSOH that you no longer met the state residency requirement.

As further proof of notices being returned to NYSOH as undeliverable, you testified that you were not receive any mail during this timeframe because the mailboxes in your complex were broken and not fixed until mid-September 2016. Notably, your inability to receive mail at your address due to your broken mailbox, which resulted in your notices being returned to NYSOH, is not the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or its instrumentalities.

Therefore, since NYSOH could not verify your residency, you were properly disenrolled from your Medicaid Managed Care plan, effective September 30, 2016 such that the September 7, 2016 eligibility redetermination and disenrollment notices are AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in a Medicaid Managed Care plan next took effect December 1, 2016.

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The record shows that on November 1, 2016, you next updated the information in your NYSOH account, were redetermined eligible for Medicaid as of November 1, 2016, and submitted a request to enroll in a Medicaid Managed Care plan.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your Medicaid Managed Care plan on November 1, 2016, it must take effect on the first day of the month following November 2016; that is, on December 1, 2016.

Therefore, NYSOH's November 2, 2016 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your Medicaid Managed Care plan on December 1, 2016.

The last issue under review is whether NYSOH properly determined that your enrollment in your Medicaid Managed Care plan ended effective December 1, 2016.

On September 7, 2016, NYSOH issued eligibility determination and disenrollment notices that were returned as undeliverable on September 14, 2017. This was because, according to your testimony, your mailbox had not been repaired yet so you were not receiving any mail at that time.

You testified that you did not know that you needed to update your account until early November 2016, when you received a bill from your provider for visits you had in October 2016. This prompted you to update your account on November 1, 2016. As noted above, you were redetermined eligible for Medicaid as of November 1, 2016 and were enrolled in a Medicaid Managed Care plan, effective December 1, 2016.

As a result of the returned September 7, 2016 notices and your subsequent enrollment in a Medicaid Managed Care plan with a December 1, 2016 start date, on November 19, 2016 and November 25, 2016 respectively, NYSOH issued eligibility redetermination and disenrollment notices. The November 19, 2016 notice stated that you were no longer eligible to enroll in Medicaid. The November 25, 2016 disenrollment notice stated that your coverage in your Medicaid Managed Care plan that was to begin on December 1, 2016 would end effective that same date.

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However, NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from their application. To assess whether an eligibility determination was untimely, NYSOH must base the time from the date of the completed application to the date NYSOH notifies the applicant of its decision.

In your case, NYSOH redetermined you to be ineligible for any financial assistance and disenrolled you from your Medicaid Managed Care plan, effective September 30, 2016, as stated in the September 7, 2016 notices. These notices were returned as undeliverable on September 14, 2016. Since NYSOH did not notify you of your eligibility redetermination until November 19, 2016 and your Medicaid Managed Care plan disenrollment until November 25, 2016, which respectively are 67 days and 72 days after the notices were returned to NYSOH as undeliverable, the November 19, 2016 and November 25, 2016 notices were untimely.

Therefore, the November 19, 2016 eligibility redetermination notice and the November 25, 2016 disenrollment notice must be **RESCINDED**.

The December 1, 2016 eligibility redetermination notice is **RESCINDED**.

The December 2, 2016 enrollment confirmation notice is **MODIFIED** to state that you are enrolled in a Medicaid Managed Care Plan, effective December 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate you into your Medicaid Managed Care Plan for the month of December 2016, and to notify you accordingly.

## **Decision**

The September 7, 2016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

The November 2, 2016 enrollment confirmation notice is **AFFIRMED**.

The November 19, 2016 eligibility redetermination and the November 25, 2016 disenrollment notices are **RESCINDED**.

The December 1, 2016 eligibility redetermination notice is **RESCINDED**.

The December 2, 2016 enrollment confirmation notice is **MODIFIED** to state that you are enrolled in a Medicaid Managed Care Plan, effective December 1, 2016, and to notify you accordingly.

**Effective Date of this Decision: May 8, 2017**

## **How this Decision Affects Your Eligibility**

The effective date of your Medicaid Managed Care plan is December 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your Medicaid Managed Care plan, effective December 1, 2016. NYSOH will notify you once this has been done.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available

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to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The September 7, 23016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

The November 2, 2016 enrollment confirmation notice is **AFFIRMED**.

The November 19, 2016 eligibility redetermination and the November 25, 2016 disenrollment notices are **RESCINDED**.

The December 1, 2016 eligibility redetermination notice is **RESCINDED**.

The December 2, 2016 enrollment confirmation notice is **MODIFIED** to state that you are enrolled in a Medicaid Managed Care Plan, effective December 1, 2016, and to notify you accordingly.

The effective date of your Medicaid Managed Care plan is December 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your Medicaid Managed Care plan, effective December 1, 2016. NYSOH will notify you once this has been done.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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**A Copy of this Decision Has Been Provided To:**



## **Getting Help in a Language Other than English**

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### **Español (Spanish)**

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### **中文 (Traditional Chinese)**

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### **Kreyòl Ayisyen (Haitian Creole)**

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### **中文 (Simplified Chinese)**

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### **Italiano (Italian)**

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### **한국어 (Korean)**

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### **Русский (Russian)**

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### **العربية (Arabic)**

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### **বাংলা (Bengali)**

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এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

### **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

### **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

### **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

### **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

### **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

### **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a okyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

### **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

### **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

### **אַײַדיש (Yiddish)**

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דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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